

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

VIRGINIA LATINO,  
Plaintiff

V.

UNUMPROVIDENT CORPORATION,  
Defendant

CIVIL ACTION NO. 04-40121-FDS

**JOINT STATEMENT REGARDING PRETRIAL MATTERS**

Pursuant to Local Rule 16.1, the plaintiff, Virginia Latino (“Ms. Latino”) and the defendant, UnumProvident Corporation (“UnumProvident”), hereby files this Joint Statement Regarding Pretrial Matters.

In this ERISA case, Ms. Latino seeks to recover total disability benefits pursuant to a group long-term disability income insurance policy issued by Provident Life and Accident Insurance Company to the plaintiff’s employer. Provident Life and Accident Insurance Company has denied the plaintiff’s claim for total disability benefits.

1. The Plaintiff Has Sued the Parent Company.

The group policy at issue in this case was issued by the Provident Life and Accident Insurance Company (“Provident”). Provident is the appropriate defendant, and must be substituted for UnumProvident Corporation. The parties have agreed to file a Stipulation substituting Provident as the defendant in this matter.

2. Proposed Discovery Plan and Schedule for Motions:

Because the Plan gives the defendant the right to make the determination as to whether the plaintiff is entitled to benefits under the policy, plaintiff’s claim for benefits must be

reviewed under the arbitrary and capricious standard of review. In these circumstances, the Court's review is limited to judicial review of the final decision of the claim administrator based on the administrative record.

Accordingly, the parties propose the schedule set forth below for consideration by the Court.

- Motions to join additional parties and to amend the pleadings must be filed by November 22, 2004.
- This matter solely concerns the Court's review of a claim for benefits under ERISA, the Defendant will provide to Plaintiff on or before November 12, 2004, a copy of the Record for Judicial Review, arranged in an orderly fashion.
- If any party proposes that it is entitled to any discovery, to constitute or supplement the record for judicial review, it must file with the Court a submission showing how the record is incomplete and therefore entitling her to such supplementation or discovery.

The Court expects a reasonable degree of particularity as to what discovery is sought and why reason exists to expect that the product of discovery would be properly received in evidence and would be material to the disposition of this civil action. Any requests for discovery must be filed by January 21, 2005. Counsel to any party not proposing discovery shall have two weeks from service of a request for discovery to file an opposition thereto.

- Insofar as this matter involves the review of an administrative record whose content will be decided based on the methodology set forth herein, the parties are relieved on any mandatory disclosure requirements under Rule 26 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Massachusetts.

- Summary Judgment Motions with accompanying memoranda must be filed by both parties by May 11, 2005.
- Responses to Summary Judgment Motions must be filed within 14 days of service of the respective motion.

3. Magistrate Judge

The parties will not consent to referral to the Magistrate Judge.

4. Local Rule 16.1 Certifications

The parties will file their certifications separately.

VIRGINIA LATINO

By her attorney,

/s/ Ronald B. Eskin (KHA)  
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Dated: October 15, 2004

UNUMPROVIDENT CORPORATION

By its attorneys,

/s/ Kristina H. Allaire  
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CERTIFICATE OF SERVICE

I, Kristina H. Allaire, hereby certify that I have this day served a copy of the foregoing document, by mailing a copy, first class mail, postage prepaid, to Ronald B. Eskin, Esq., Law Office of Ronald B. Eskin, P.C., 228 Central Street, Lowell, MA 01852.

/s/ Kristina H. Allaire  
Kristina H. Allaire, Esq.

Dated: October 15, 2004